

February 29, 2012

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: TracFone Wireless, Inc., CC Docket No. 96-45 and WC Docket No. 09-197

Dear Ms. Dortch:

By this letter, TracFone Wireless, Inc. (“TracFone”) withdraws a portion of a Petition for Declaratory Ruling filed in CC Docket No. 96-45 and WC Docket No. 09-197. On December 1, 2010, TracFone filed a Petition for Declaratory Rulemaking requesting that the Commission issue a declaratory ruling confirming the following: (1) an Eligible Telecommunications Carrier (“ETC”) is not eligible to receive reimbursement from the federal Universal Service Fund (“USF”) for providing Link Up benefits unless the ETC has and imposes on its customers a customary charge for commencing telecommunications service; (2) a carrier designated as an ETC to provide wireline services may not expand its USF-supported services to include wireless services without obtaining wireless ETC designation from a designating authority authorized to designate wireless ETCs in the service area; and (3) to be designated as an ETC in a state, a carrier must use some of its own facilities to provide USF-supported services within the carrier’s service area in that state.

On February 6, 2012, the Commission released a report and order that substantially revised the rules governing the Lifeline and Link Up programs.¹ In the Lifeline Reform Order, the Commission addressed some of the issues set forth in TracFone’s petition for declaratory ruling. In particular, the Commission eliminated Link Up support to all ETCs on non-Tribal lands.² The Commission’s elimination of Link Up support to all ETCs on non-Tribal lands mooted TracFone’s request for a declaratory ruling confirming that an ETC is not eligible to receive Link Up benefits unless it has and imposes on its customers a customary charge for commencing telecommunications service. Therefore, TracFone hereby withdraws the portion of

¹ Lifeline and Link Up Reform and Modernization et al., WC Docket No. 11-42 et al., *Report and Order and Further Notice of Proposed Rulemaking*, FCC 12-11 (rel. Feb. 6, 2012) (“Lifeline Reform Order”).

² Id., ¶ 245.

its petition that concerns Link Up support. The Commission did not address in the Lifeline Reform Order TracFone's request for a declaratory ruling confirming that a carrier designated as an ETC to provide wireline services may not expand its USF-supported services to include wireless services without obtaining wireless ETC designation from a designating authority authorized to designate wireless ETCs in the service area. As such, TracFone maintains the portion of its petition that relates to wireline ETCs seeking to expand their service to include wireless service.

Finally, in the Further Notice of Proposed Rulemaking included in the Lifeline Reform Order, the Commission seeks comment on issues relevant to TracFone's request for a declaratory ruling confirming that to be designated as an ETC in a state, a carrier must use some of its own facilities to provide USF-supported services within the carrier's service area in that state. The Commission references TracFone's petition and notes that several parties have filed comments on what constitutes facilities. In addition, the Commission "seek[s] to refresh the record in light of the reforms set forth in the Order, so that we may appropriately consider whether there is a need to clarify any minimum requirements of what is classified as 'facilities' under section 214(e)(1)(A)."³ The Notice of Proposed Rulemaking demonstrates that the Commission is still considering the facilities issue set forth in TracFone's petition for declaratory ruling. Therefore, TracFone maintains the portion of its petition concerning the requirement that ETCs use their own facilities to provide USF-supported services.

Sincerely,



Mitchell F. Brecher

cc: Ms. Kimberly Scardino

³ Id., ¶ 499.